

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE: GOOGLE ADVERTISING
ANTITRUST LITIGATION

Case No. 1:21-md-03010-PKC

UNOPPOSED MOTION FOR EXPEDITED INTERIM PROTECTIVE ORDER

The MDL Plaintiffs¹ submit this joint motion seeking entry, on an expedited basis, of the attached proposed Unopposed Expedited Interim Protective Order. Plaintiffs have conferred with Defendants Google LLC and Facebook, Inc. who do not oppose entry of the attached proposed Unopposed Interim Protective Order.

Plaintiffs request entry of an Interim Protective Order, which would permit the Plaintiff States to share, with outside counsel for the other private Plaintiff groups, on an External Attorneys' Eyes Only basis, the following with outside counsel for the other Plaintiffs: the fully unredacted Second Amended Complaint (ECF No. 81) and drafts of the States' forthcoming Third Amended Complaint. Plaintiffs' request is narrowly tailored to obviate any theoretical risks; the requested Order would limit the States' disclosure to only the outside counsel representing the private Plaintiffs, and it would specifically disallow disclosure to the private Plaintiffs themselves (or their in-house counsel).

During the September 24, 2021 conference and corresponding minute order (ECF No. 129), the Court ordered the parties to negotiate and submit a proposed comprehensive protective order to govern disclosure and exchange of all confidential information in this MDL. The MDL Plaintiffs were able to coordinate edits and comments since the hearing and provided Defendants with a draft

¹ "Plaintiffs" (or "MDL Plaintiffs") refers to all parties, state and private, currently styled as plaintiffs in the cases comprising the above-referenced MDL litigation, including any subsequent division of the case for trial or otherwise.

protective order on October 15, 2021, to begin the negotiation process. Such an order would obviate the need for Plaintiffs' current request because it would make the private Plaintiffs privy to the States' unredacted complaints. But timing constraints now necessitate an interim protective order. While the parties are hopeful that their negotiations of a comprehensive protective order will conclude in short order, they are unlikely to conclude in time to permit the States to adequately consult with the private Plaintiffs' outside counsel regarding their Third Amended Complaint, which is due November 12, 2021 (less than 3 weeks from the date of this motion). *See* Order at 2 (Oct. 13, 2021), ECF No. 144.

As noted in the States' recent correspondence with the Court, it is important that the States be permitted to "finalize a comprehensive Third Amended Complaint in consultation with the other interested plaintiffs." Letter from Mark Lanier to Judge Castel at 2 (Oct. 8, 2021), ECF No. 141. But such consultation would be substantially frustrated if the States are unable to fully address the substance of their claims with the private Plaintiffs' outside counsel.

The Interim Protective Order is necessary for additional reasons as well. The States are currently unable to appropriately consult with even the private Plaintiffs' outside counsel, despite the Court's October 15 Order (ECF 147) directing the States to remove most—but not all—of the redactions currently applied to the publicly filed version of the Second Amended Complaint for two reasons. First, drafts of the Third Amended Complaint will contain information and/or materials designated confidential by Google and Facebook that were not addressed by the Court's Order because they were not referenced in the Second Amended Complaint. Second, even the less-redacted version of the Second Amended Complaint (which will be filed, as ordered, by October 22, 2021) maintains certain redactions that would limit the States' ability to consult with interested private Plaintiffs' outside counsel concerning potential amendments to the States' complaint.

Accordingly, to facilitate the States' ability to properly and timely consult with the private Plaintiffs' outside counsel regarding the soon-to-be-filed operative lead complaint in this MDL, Plaintiffs respectfully request entry of the attached narrowly tailored Interim Protective Order.

Dated: October 25, 2021

Respectfully submitted,

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